IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 3819 of 2004(D)

PETITIONER:

K.S.JOSEPH, S/O. V.V.DEVASSIA (LATE),
AGED 35 YEARS, 27/566, `KANIYANKUNNEL HOUSE',
ANJALI LANE, PALLIPURAM P.O., PALAKKAD.

BY ADV. SRI.K.B.MUHAMED KUTTY
SRI.K.M.FIROZ

RESPONDENTS:
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1. THE ASSISTANT COMMISSIONER (ASSESSMENT),
COMMERCIAL TAXES, THIRUVANANTHAPURAM.

2. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
(TAXES DEPARTMENT), SECRETARIAT,THIRUVANANTHAPURAM

3. MARIKAR ENGINEERS LIMITED,
AUTOMOBILE AND GENERAL ENGINEERS, PRIYA ESTATE,
N.H. BY-PASS, THAMMANAM P.O., COCHIN-32.

BY ADV. SRI.A.N.KUTTAN
GOVERNMENT PLEADER SMT. K.R.DEEPA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 3819/2004 D

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE INVOICE ISSUED BY THE R3 DT. 8/4/03.

EXT.P2 SERIES: COPIES OF THE NOTICES ISSUED BY THE PETITIONERS TO THE R3 DT. 30/4/2003 AND 28/5/2003.

EXT.P3. COPY OF THE REPLY ISSUED BY THE RESPONDENT DT. 10/06/2003.

EXT.P4. COPY OF THE NOTICE ISSUED TO THE R3 BY THE PETITIONER DT. 25/6/2003.

EXT.P5. COPY OF THE NOTICE ISSUED BY THE PETITIONER THROUGH THE CHARTERED ACCOUNT TO THE R1 DT. 25/6/03.

EXT.P6. COPY OF THE LETTER ISSUED TO THE PETITIONER BY THE R1 DT. 2/07/03.

EXT.P7. COPY OF THE LETTER ISSUED BY THE R3 TO THE PETITIONER DT. 30/6/2003.

EXT.P8. COPY OF THE NOTICE BY THE PETITIONER TO THER 1 DT. 8/8/2003.

EXT.P9. COPY OF THE REQUEST ISSUED BY THE PETITIONER TO THE R3 DT. 16/08/2003.

EXT.P10. COPY OF THE REFUSAL LETTER BY THE R3 TO THE PETITIONER DT. 13/12/2003.

True copy

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KURIAN JOSEPH J.

W.P.(C) No.3819 of 2004

Dated 4th July, 2007.

J U D G M E N T

The writ petition is filed praying for a direction to refund the additional tax already collected by the third respondent and paid to the Government as per Ext.P1 invoice. Learned counsel for the petitioner submits that only because of the refusal of the third respondent to issue Form 40 certificate, action is not taken by the Government. There will be a direction to the third respondent to issue the required certificate within a period of one month from the date of production of a copy of the judgment for enabling the petitioner to claim refund before the second respondent. Thereafter, based on the request made by the petitioner before the second respondent, appropriate action in accordance with law will be taken by the second respondent, within four months from the date of receipt of the request.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO. OF 200

J U D G M E N T

Dated 4th July, 2007.